

**EXECUTIVE SECRETARIAT**  
ROUTING SLIP

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	EXDIR				
4	D/ICS				
5	DDI		X		
6	DDA				
7	DDO				
8	DDS&T		X		
9	Chm/NIC				
10	GC				
11	IG				
12	Compt				
13	D/Pers				
14	D/OLL				
15	D/PAO				
16	SA/IA				
17	AO/DCI				
18	C/IPD/OIS				
19	NIO				
20					
21					
22					

SUSPENSE \_\_\_\_\_ Date \_\_\_\_\_

Remarks

*cmj*

Executive Secretary

21 FEB 85  
Date

STAT

## CABINET AFFAIRS STAFFING MEMORANDUM

Date: 2/20/85 Number: ----- Due By: -----Subject: Cabinet Council on Commerce and Trade Minutes

ALL CABINET MEMBERS	Action	FYI		Action	FYI
Vice President	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CEA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
State	<input type="checkbox"/>	<input type="checkbox"/>	CEQ	<input type="checkbox"/>	<input type="checkbox"/>
Treasury	<input type="checkbox"/>	<input type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Justice	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Interior	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Commerce	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Labor	<input type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HHS	<input type="checkbox"/>	<input type="checkbox"/>	McFarlane	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HUD	<input type="checkbox"/>	<input type="checkbox"/>	Svahn	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transportation	<input type="checkbox"/>	<input type="checkbox"/>	Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Energy	<input type="checkbox"/>	<input type="checkbox"/>	Chapman	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Education	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Counsellor	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
CIA	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
UN	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
USTR	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Chief of Staff	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
GSA	<input type="checkbox"/>	<input type="checkbox"/>	Executive Secretary for:		
EPA	<input type="checkbox"/>	<input type="checkbox"/>	CCCT	<input type="checkbox"/>	<input checked="" type="checkbox"/>
NASA	<input type="checkbox"/>	<input type="checkbox"/>	CCEA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
OPM	<input type="checkbox"/>	<input type="checkbox"/>	CCFA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
VA	<input type="checkbox"/>	<input type="checkbox"/>	CCHR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
SBA	<input type="checkbox"/>	<input checked="" type="checkbox"/>	CCLP	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			CCMA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			CCNRE	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## REMARKS:

Attached for your information are the minutes of the following Cabinet Council on Commerce and Trade meetings:

January 14, 1985

January 24, 1985

January 31, 1985

## RETURN TO:

☐ Alfred H. Kingon  
Cabinet Secretary  
456-2823  
(Ground Floor, West Wing)

☐ Don Clarey  
☐ Tom Gibson  
☒ Larry Herbolsheimer

Associate Director  
Office of Cabinet Affairs  
456-2800 (Room 129, OE0B)

DCI  
EXEC  
REG

MINUTES  
CABINET COUNCIL ON COMMERCE AND TRADE  
Meeting #92, January 14, 1985  
8:45 a.m., Roosevelt Room

Attendees: Messrs. Baldrige, Block, McNamar, Ford, Wright, Murphy, Swain, Niskanen, Olmer, Wallis, McGrath, Draper, Driggs, Herbolsheimer, Milbergs, Robinson, Massey, and Ms. Risque

1. Recommendations of the President's Commission on Industrial Competitiveness

Mr. Driggs presented a report from the Working Group on Industrial Competitiveness which reviewed the second set of recommendations from the President's Commission on Industrial Competitiveness. (A first group of recommendations were presented to the CCT on July 12, 1984.) Ten items dealing with export promotion activities and one item on business school education were covered. Each recommendation and the Council's action on it is summarized below.

The first recommendation was that the President should direct the Secretary of Commerce to coordinate with the appropriate executive branch agencies in order to establish a coordinated local interagency export delivery system. The Working Group report agreed with the objective of this recommendation. The Council, noting ongoing activities in this area, directed the Commerce Department to take the lead in interagency coordination of those activities.

The second recommendation was that the President should direct the executive branch and regulatory agencies to calculate and publish analyses of anticipated effects of any proposed legislation on export promotion. The Working Group report agreed with the intent of the recommendation but recommended that no further action be taken. The Council accepted the Working Group's recommendation.

The third recommendation was that the President should seek legislation to clarify the meaning and the application of the Foreign Corrupt Practices Act. The Working Group report noted that the Administration has proposed legislation over the last year to do just this, and that the recommendation is supportive and helpful to the Administration's efforts in this area. The Council accepted the Working Group's recommendation that no further action be taken on this recommendation.

The fourth recommendation was that the President should require U.S. Ambassadors to provide annual reports on their embassy's export expansion strategy and the President should appoint a visiting commercial activity review team of leading U.S. business executives. The Working Group report noted that this recommendation was consistent with the objectives of current Administration programs and with efforts already underway. Council members discussed the adequacy of

-2-

present embassy reports and their impact on export expansion strategies. The Council directed that Undersecretaries Olmer and Wallis meet to discuss how embassies' export expansion plans could be improved. It further directed that all agencies provide written comments on this recommendation to the Council, and that Mr. Driggs contact the President's Export Council to explore whether they would be interested in organizing a task force of businessmen to assess embassy export promotion performance.

The fifth recommendation was that the Secretaries of Commerce and State should strengthen the personnel programs of the foreign service and foreign commercial service to modify current rotation policies to ensure longer tenures and a greater continuity of U.S. efforts. The Council accepted the Working Group's recommendation that no further action be taken on this recommendation in view of the fact that the Departments of Commerce and State have already modified personnel practices to extend the tenure of their representatives overseas.

The sixth recommendation was that the President should direct the Office of Management and Budget to identify which non-finance related limitations on the Export Import Bank's operating authority should be removed. The Working Group noted the objective of this recommendation but deferred specific comment until after the budget review has resolved its questions for the Export Import Bank. In the Council's discussion it was noted that the expected outcome of that review would be no change in the limits on the Export Import Bank in the new budget. The Council requested that Mr. Draper and Mr. Milbergs meet to identify specifically what non-finance limitations on the Export Import Bank's operating authority were being referred to in this recommendation.

The seventh recommendation was that the President should direct the Chairman of the Export Import Bank to devise a competitive approach to mixed credit finance. The Working Group report stated that the current Administration policy is to seek elimination of mixed credit financing. Increased use by the United States of mixed credit financing is likely to increase the use of mixed credits by other countries and also increase the budget deficit in the U.S. It was pointed out that no separate fund exists at the Export Import Bank for mixed credit. This limits its ability to use mixed credits within the present budget. Council members noted, however, that the problem of foreign countries using mixed credit financing to promote exports was getting worse rather than better and that there was a need to demonstrate that the U.S. is prepared to take the same action. Such an action would be effective, however, only if it changed the behavior of those states which were engaging in mixed credit financing. It would not be effective if its effect was simply to force those states to escalate their use of mixed credits. The Council decided to review this issue again in three months. Mr. Draper was asked to prepare a list of cases of the use of mixed credit financing.

-3-

The eighth recommendation was that the Export Import Bank should stimulate greater private sector lending for exports by expanding its working relationship nationwide with commercial banks and state export banks. The Working Group, noting that the bank has initiated a pilot project in four states to decentralize decisions and become more active at the local level, supported this recommendation with the qualification that pursuit of these activities should be consistent with the 1986 budget. The Council accepted the recommendation of the Working Group.

The ninth recommendation was that the President should initiate a new U.S. export promotion campaign in 1985. The Working Group report endorsed the objective of continuing emphasis on export promotion campaign as a way to assist U.S. business and as a way to encourage the growth of U.S. exports. It noted that there are a number of export promotion programs currently underway. The Working Group believed it inappropriate to mount separate campaigns at the Presidential level. Rather, as the efforts mature, the President could bring greater visibility to export promotion. Council members agreed on the value of having the President take more visible action with respect to export promotion. The Council decided that each member department will look for opportunities for Presidential involvement.

The tenth recommendation was that the President should appoint a commission or task force to investigate the feasibility of creating a semi-private, non-profit U.S. export promotion organization. The Working Group report noted that there are a number of organizations already in existence, such as the President's Export Council and a number of industrial sector advisory committees, that are geared to the purpose of this objective. It further noted that there is a danger in creating these semi-public organizations in that either they soon become dependent on federal funding or remaining private use their ties to the federal government to attract funding and rates better than truly private institutions. The Council accepted the Working Group's recommendation that no further action be taken on this recommendation.

The eleventh recommendation concerned business schools. The Working Group applauded the objectives of the Commission's reports in this area and noted that they were directed primarily to the private sector and the educational community. The Working Group recommended that the Cabinet Council note these recommendations and add its endorsement to the Commission that the private sector should acknowledge these points and act upon them as much as possible. The Council accepted the Working Group's recommendation.

-4-

2. Oral Report by Undersecretary Lionel Olmer on the Trade Talks with the USSR

Mr. Olmer made a brief report in anticipation of making a more detailed report at an upcoming meeting of the SIG-IEP. He stated that the objective of the mission, to explore the feasibility of beginning Cabinet-level talks in the near future, was met. The Soviets showed interest in such talks, although no date was set for the meeting. The Soviets took pains to establish a cordial atmosphere in the meeting, even to replacing their delegation chairman with a more hospitable official.

The Council adjourned at 9:50 a.m.

MINUTES  
CABINET COUNCIL ON COMMERCE AND TRADE  
Meeting #93, January 24, 1985  
2:00 p.m., Cabinet Room

**Attendees:** The President, The Vice President, Messrs. Baldrige, Shultz, Clark, Smith, Ms. Dole, Hodel, Sanders, Svahn, Ford, Taft, Porter, Herrington, Fielding, Cicconi, Naylor, Baker, Wright, Smith, Niskanen, Fuller, Oglesby, Verstandig, Driggs, Herbolsheimer Young, Porter, Uhlman, Baroody, Cribb, Keyworth, and Murphy.

**Discussion:** Secretary Baldrige opened the meeting by describing the review by the Council of Commerce and Trade of the thirty-two specific recommendations of the President's Commission on Industrial Competitiveness (PCIC). He noted that the Commission had done a good job in examining a very complex question. The Cabinet Council review of the specific recommendations is not complete, and, although the Council may not be in full agreement with every aspect of the recommendations, a favorable report is anticipated.

The Cabinet Council has completed review of about half of the Commission's recommendations. They have dealt with research and development, human resources, and international trade. Most of these recommendations are consistent with Administrative policies. Some, such as those dealing with the Export-Import Bank, have been scheduled for follow-up by the Cabinet Council, or for coordination with other groups, such as the President's Export Council.

John Young, Chairman of the PCIC, presented a briefing of the Commission's findings and conclusions. He noted that the Commission was established in June, 1983, with thirty members from business, labor, academia, and government. Its objective was to make recommendations which would improve U.S. competitiveness in world markets. It was an action oriented group, and its recommendations have been submitted to the CCCT. The first job of the Commission was to define competitiveness. They decided that competitiveness should be the degree to which a nation can, under free and fair market conditions, produce goods and services that meet the tests of international markets while simultaneously maintaining or expanding the real incomes of its citizens. The Commission examined competitiveness in three key areas: technology, capital, and human resources.

Mr. Young discussed several indicators of competitiveness. He noted that real compensation per hour in the business sector essentially has been level for the last ten years, although it grew appreciably in the previous ten. In addition, for the last

-2-

half dozen years, the return on financial investments has been significantly higher than the return on manufacturing assets. There has, in short, been a disincentive to invest in manufacturing. Mr. Young then discussed the changing U.S. share of world high technology exports, labeled this area as a potentially high-priority problem, and discussed the increasing trade deficit over the last few years.

The underlying causes of this were identified as productivity, capital, technology, and trade environment. Mr Young pointed out that the U.S. had the lowest rate of productivity growth of the major industrialized nations. The productivity growth appeared to be closely related to the degree of capital formation. For civilian research and development, expenditures as a percentage of GNP in the United States has lagged significantly behind the levels of both Japan and Germany. Unlike previous years, when the major investments in defense R&D could be viewed as driving innovations in the civilian sector, the Commission believes the reverse now to be true.

Finally, Mr. Young discussed trade policy implementation and organizational relationships. Since trade affects almost every sector of our economy and almost every federal agency in some way, a very complex structure of agency responsibilities and interagency committees has emerged. This has resulted in the loss of focus and direction in our trade policy formation.

Mr. Young discussed the conclusions of the Commission. Basically, the Commission believes that the United States should build on domestic strengths and work toward free and fair trade. We should create, apply, and protect new technology; reduce the cost of capital; develop a more skilled, flexible, and motivated workforce; and make trade a national priority. Mr. Young ended his presentation by saying that the Commission believes that competitiveness should be a major theme for the next term of the Administration, that efforts to improve competitiveness should help to sustain economic recovery, strengthen the private sector, and maintain world technological leadership.

There was a brief discussion of the level of examination the Commission had given to federal regulations, especially health and safety regulations. Mr. Young mentioned that the Commission did not examine all federal regulatory efforts in depth and concentrated its efforts on high technology.

The President thanked Mr. Young for his presentation.

The Council adjourned at 2:40 P.M.



MINUTES  
CABINET COUNCIL ON COMMERCE AND TRADE  
Meeting #94, January 31, 1985  
3:00 p.m., Roosevelt Room

Attendees: Messrs. Baldrige, Brock, Ford, Svahn, Dam, Burnley, Boggs, Ms. McLaughlin, Messrs. Wright, Niskanen, Porter, Hauser, Herbolzheimer, Watkins, Platt, Levine, McGrath, Sprinkel, Wethington, Tracy, Whitfield, Draper, Gray, Ms. Risque, Ms. Constable, Messrs. Massey, and Driggs.

Discussion: Secretary Baldrige and Ambassador Brock convened a joint meeting of the CCCT/TPC on the Japanese voluntary export restraint on automobiles (the "VRA"). The meeting was explicitly informational in nature. No decision or recommendation regarding the Administration's position on the VRA was made or addressed.

Messrs. Niskanen and Watkins discussed various aspects of the condition of the U.S. auto industry. In 1984, the financial condition of the industry was at its best since 1978, with all-time record profits. Although company balance sheets have not returned to the 1978 level, cash flows should be sufficient to finance capital expenditures, debt repayment, and dividends without substantial borrowing.

Ambassador Brock led a general discussion of the history of U.S.-Japanese talks on automobiles and of the relationship of this issue to other trade issues. He noted that he would be in Japan from February 9-12, and that he would inform the Japanese Government, if it raised the question, that the Administration's position was still under consideration at the Cabinet level and no decision had yet been made.

It was agreed that, upon Ambassador Brock's return from Japan, another joint meeting of the Cabinet Council and the Trade Policy Committee would be held so that he could brief the Cabinet on Japanese views on the auto question.

# CABINET AFFAIRS STAFFING MEMORANDUM

Date: 2/12/85 Number: 169134CA Due By:

Subject: Cabinet Council on Commerce and Trade Planning Meeting

Wednesday, February 13, 1985 - 8:45 A.M. - Roosevelt Room

ALL CABINET MEMBERS	Action	FYI
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Treasury	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Interior	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Agriculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Commerce	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Labor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HHS	<input type="checkbox"/>	<input checked="" type="checkbox"/>
HUD	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Energy	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Counsellor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
OMB	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CIA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
UN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
USTR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Chief of Staff	<input checked="" type="checkbox"/>	<input type="checkbox"/>
GSA	<input type="checkbox"/>	<input type="checkbox"/>
EPA	<input type="checkbox"/>	<input type="checkbox"/>
NASA	<input type="checkbox"/>	<input type="checkbox"/>
OPM	<input type="checkbox"/>	<input type="checkbox"/>
VA	<input type="checkbox"/>	<input type="checkbox"/>
SBA	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Action	FYI
CEA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CEQ	<input type="checkbox"/>	<input type="checkbox"/>
OSTP	<input type="checkbox"/>	<input type="checkbox"/>
Deaver	<input type="checkbox"/>	<input checked="" type="checkbox"/>
McFarlane	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Svahn	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Chapman	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Executive Secretary for:		
CCCT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CCEA	<input type="checkbox"/>	<input type="checkbox"/>
CCFA	<input type="checkbox"/>	<input type="checkbox"/>
CCHR	<input type="checkbox"/>	<input type="checkbox"/>
CCLP	<input type="checkbox"/>	<input type="checkbox"/>
CCMA	<input type="checkbox"/>	<input type="checkbox"/>
CCNRE	<input type="checkbox"/>	<input type="checkbox"/>

## REMARKS:

As previously announced, the Cabinet Council on Commerce and Trade will meet on Wednesday, February 13, at 8:45 A.M. in the Roosevelt Room.

The background paper for the first agenda item is attached. Background material for the second item was distributed on 2/11/85.

## RETURN TO:

☐ Alfred H. Kingon  
Deputy Assistant to  
the President for  
Cabinet Affairs  
456-2823  
(White House)

☐ Don Clarey  
☐ Tom Gibson  
☒ Larry Herbolsheimer

Associate Director  
Office of Cabinet Affairs  
456-2800 (Room 129, OEOB)

DCI  
EC  
3

L300c



**THE SECRETARY OF COMMERCE**  
Washington, D.C. 20230

February 7, 1985

**MEMORANDUM FOR THE CABINET COUNCIL ON COMMERCE AND TRADE**

**SUBJECT:** The CCCT Working Group on Intellectual Property  
Recommendation on United States Adherence to the  
Berne Convention for the Protection of Literary  
and Artistic Works

**Background**

The Berne Convention for the Protection of Literary and Artistic Works, administered by the World Intellectual Property Organization (WIPO), is the oldest and most important multilateral copyright treaty. The Convention's members pledge to maintain high levels of protection for the rights of authors in their literary and artistic works. The range of protected works is broad, going from conventional works -- such as books, motion pictures, and music -- to new technological works including audio and video cassettes, and computer-related works. The Convention contains detailed provisions that specify minimum levels of protection to be provided by member countries.

Because of historically rooted divergences of copyright principles, the United States has not joined the Berne Union since its establishment in 1886. These differences included United States requirements for copyright formalities such as notice and registration, requirements for domestic manufacture to obtain protection, and a relatively short term of protection. The United States, the Soviet Union, and China are the only major countries that are not members of the Berne Convention.

**United States International Copyright Relations**

At present, United States international copyright relations are largely governed by the Universal Copyright Convention (UCC), a lower-level multilateral international agreement administered by the United Nations Educational Scientific and Cultural Organization (UNESCO). The UCC was negotiated in the early 1950's, principally to bring the United States into the international copyright community. It contains provisions that were specifically tailored to permit the United States to maintain its rather unique system of copyright, including the formalities mentioned above. The UCC was intended to be a bridge that would permit the United States to bring order to its international copyright relations and to give the United States time to revise its own copyright law. As the United States withdrew from UNESCO at the end of 1984, the United States will no longer be able to participate in the UNESCO General Conference review and approval of the UCC program and budget. Withdrawal has not affected our membership in the UCC.

-2-

### United States Copyright Law Provisions and the Berne Convention

In 1976, revisions to the United States copyright law removed the major impediments to United States adherence to the Berne Convention. However, some adjustments remain to be made in our law to make it compatible with the Berne Convention. These adjustments may include changing the copyright notice requirement, some aspects of our registration system, and possibly certain of the compulsory license provisions. Determining exactly what changes to the law are needed and limiting the legislative program to implement those changes will require a concentrated effort by the government and the copyright community. Effective private sector support for these changes will be essential. Other requirements of the Convention such as safeguarding the rights of authors to claim authorship in their works and to object to distortions of their works that may bring dishonor upon their person -- referred to in the Berne Convention as the author's moral rights -- may be met by reliance on common law or various state laws.

### Private Sector Support for the Berne Convention

At the September 12, 1984, meeting of the State Department's International Copyright Advisory Panel, the copyright proprietors unanimously supported adherence. The Motion Picture Association of America, a traditional opponent of the Berne Convention because of Berne's recognition of the author's moral rights, now strongly endorses Berne adherence because of the Association's conviction that the Convention is important to improve international protection for foreign uses of their films. Copyright users, as represented by educators, also supported the concept of Berne adherence. It will be important to consolidate this generally high level of support for Berne adherence before public discussion of any specific legislative proposals.

### United States Benefits from Berne Adherence

A number of benefits will accrue to the United States upon adherence to the Berne Convention.

#### 1. More Favorable Forum

The World Intellectual Property Organization (WIPO), a specialized United Nations agency dealing only with intellectual property matters, is better equipped than UNESCO to deal with modern intellectual property matters. The influence of developing nations in WIPO is not as great as in UNESCO and, in general, WIPO is less politicized than UNESCO. In addition, the WIPO Director General, Arpad Bogsch, is a U.S. national and strongly supports United States adherence to Berne.

-3-

2. Higher Levels of Protection

As the importance of trade in products embodying or based upon intellectual properties continues to increase, the importance of maintaining effective levels of international protection for U.S. producers and creators of these properties will also continue to increase. For example, the motion picture industry in 1983 had worldwide revenues of \$2.5 billion, of which nearly \$1 billion was brought back into this country. The computer software industry, a relative newcomer to copyright, had worldwide revenues of \$18 billion in 1983, of which \$10 billion accrued to U.S. firms. High levels of copyright protection are vitally important to these and other industries.

3. Better Political/Negotiating Posture

Adherence to the Berne Convention will enable U.S. trade and intellectual property officials to negotiate from a stronger base when seeking to address trade problems involving intellectual property and when representing the United States in international copyright meetings. This point will be especially important at the next revision conference of the Berne Convention and the UCC, which conference may occur toward the end of the 1980's. It will also put U.S. private sector business representatives on an equal footing with their equivalents from our major trading partners who are members of the Berne Convention, as well as the UCC.

4. Strengthen the International Copyright System

The international intellectual property system is under pressure from the demands of developing countries. These pressures have been particularly acute in copyright, especially in the areas influenced by new technologies -- high-speed photocopy machines, cable television, satellites, and computers. Our full participation in the governing body of the Berne Convention, the Berne Union Assembly, will put us in a better position to deal effectively with these problems. Also, United States membership in the Berne Union will serve to encourage newly industrialized and developing nations to adhere to Berne and conform their laws to the high standards of the Berne Convention.

5. Influence on Domestic Law

United States adherence to the Berne Convention will exert some influence on the domestic U.S. copyright law. Certainly, formalities will have to be relaxed and some adjustments may be required in our compulsory licenses.

-4-

Beyond these immediate effects, it will force us to realize that we cannot "go it alone" with respect to copyright policy. It will require us to think about copyright as an international system that maintains basic levels of protection essential to the world-wide marketing of U.S. copyrighted works.

#### Possible Opposition to Berne Adherence

Objections to Berne Convention adherence could arise in the copyright user community -- librarians, educators (in spite of their present support for adherence), cable television operators, and other groups that advocate expansive application of private copying exemptions -- if they perceive that adherence would require higher levels of domestic copyright protection. Opposition could also develop in the printing industry if Berne adherence becomes linked to the planned elimination of the requirement for domestic manufacture of works by American authors preponderantly in the English language.

Some features of the legislation needed to conform U.S. copyright law to the requirements of the Berne Convention may raise concerns in other U.S. copyright interest groups.

1. Librarians, educators, and reprint publishers rely on registration records, or the lack of a copyright notice or the date in the copyright notice to determine if a work is in the public domain. They may oppose making the use of the copyright formalities of notice, registration and recordation voluntary or providing non-copyright incentives for their use. However, under the present law the value of the copyright notice as an indicator of protection or ownership has been substantially reduced since all works are protected irrespective of their marking with a copyright notice. In most cases, the term of copyright expires 50 years after the author's death, not from a fixed period from the date in the copyright notice. Also, a copyright registration and recordation system could be maintained as a voluntary system or with non-copyright incentives to provide additional information about the copyright status of particular works.
2. Changes may be needed with respect to certain compulsory licenses in the U.S. copyright law. In particular some European copyright experts believe that the compulsory license for the public performance of copyrighted music on jukeboxes will need modification. If this compulsory license must be eliminated in favor of rate setting in the private market, jukebox operators will oppose this legislation. However, the Administration as well as music composers, publishers, performing rights societies, and the American Bar Association are on record as being opposed to this compulsory license.

3. The Berne Convention requires the recognition of "moral rights" of authors -- generally, the right to claim authorship in the work and to object to actions that would prejudice the author's honor or reputation. Since the scope of its application is undefined, there may be sources of support for and opposition to "moral rights" from groups that cannot be identified at this time.

These three possible areas of contention only emphasize the need to consolidate the present private sector support for adherence to the Berne Convention.

#### Recommendation

The Cabinet Council on Commerce and Trade should endorse United States adherence to the Berne Convention and authorize its Chairman pro tempore to seek Presidential ratification of this decision. To implement this decision, the Department of Commerce, in conjunction with the Department of State, should work with the Copyright Office, the leadership of the appropriate Congressional committees, and the private sector to encourage broad support for adherence and to secure agreement on any necessary implementing legislation. The Department of State should prepare a recommendation to the President seeking the advice and consent of the Senate to adherence. The Department of Commerce should prepare and submit any implementing legislation.

*Malcolm Baldrige*  
Malcolm Baldrige

**EXECUTIVE SECRETARIAT**  
ROUTING SLIP

**EK**  
/

TO:

		ACTION	INFO	DATE	INITIAL
1	DCI				
2	DDCI				
3	EXDIR				
4	D/ICS				
5	DDI				
6	DDA		X		
7	DDO				
8	DDS&T				
9	Chm/NIC		X (w/att)		
10	GC				
11	IG				
12	Compt				
13	D/Pers				
14	D/OLL				
15	D/PAO				
16	SA/IA				
17	AO/DCI				
18	C/IPD/OIS				
19					
20					
21					
22					
SUSPENSE		Date _____			

Remarks

Berne Convention item is forthcoming.  
STAT

Executive Secretary

12 February 1985

Date

3637 (10-81)



**CABINET AFFAIRS STAFFING MEMORANDUM**Date: 2/11/85 Number: 169134CA Due By: \_\_\_\_\_Subject: Cabinet Council on Commerce and Trade Planning MeetingWednesday, February 13, 1985 - 8:45 A.M. - Roosevelt Room

ALL CABINET MEMBERS	Action	FYI		Action	FYI
Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEQ	<input type="checkbox"/>	<input type="checkbox"/>
Treasury	<input checked="" type="checkbox"/>	<input type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
Defense	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Interior	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Agriculture	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Regan	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Commerce	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Deaver	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Labor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McFarlane	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HHS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Svahn	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
HUD	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Chew (For WH Staffing)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Chapman	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Energy	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Education	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
Counsellor	<input checked="" type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
OMB	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
CIA	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
UN	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
USTR	<input type="checkbox"/>	<input checked="" type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
GSA	<input type="checkbox"/>	<input type="checkbox"/>	Executive Secretary for:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EPA	<input type="checkbox"/>	<input type="checkbox"/>	CCCT	<input type="checkbox"/>	<input type="checkbox"/>
NASA	<input type="checkbox"/>	<input type="checkbox"/>	CCEA	<input type="checkbox"/>	<input type="checkbox"/>
OPM	<input type="checkbox"/>	<input type="checkbox"/>	CCFA	<input type="checkbox"/>	<input type="checkbox"/>
VA	<input type="checkbox"/>	<input type="checkbox"/>	CCHR	<input type="checkbox"/>	<input type="checkbox"/>
SBA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CCLP	<input type="checkbox"/>	<input type="checkbox"/>
			CCMA	<input type="checkbox"/>	<input type="checkbox"/>
			CCNRE	<input type="checkbox"/>	<input type="checkbox"/>

**REMARKS:**

There will be a Cabinet Council on Commerce and Trade Planning Meeting on Wednesday, February 13, at 8:45 A.M. in the Roosevelt Room.

The agenda and background paper on the Federal Laboratory Report are attached. The background paper on the Berne Convention is forthcoming.

**RETURN TO:**

☐ Alfred H. King  
Deputy Assistant to  
the President for  
Cabinet Affairs  
456-2823  
White House

☐ Don Clarey  
☐ Tom Gibson  
☒ Larry Herbolsheimer

Associate Director  
Office of Cabinet Affairs  
456-2800 (Room 129, OE08)

DCI  
EXEC  
REG

THE WHITE HOUSE  
WASHINGTON

CABINET COUNCIL ON COMMERCE AND TRADE

February 13, 1985

Roosevelt Room

AGENDA

1. Berne Convention
2. Federal Laboratory Report

THE WHITE HOUSE  
WASHINGTON

February 7, 1985

MEMORANDUM FOR CABINET COUNCIL ON COMMERCE AND TRADE (CCCT)

FROM:

JAY KEYWORTH *Jay Keyworth*

SUBJECT:

Progress Report on Federal Laboratories

In August 1983, the President directed the Office of Science and Technology Policy and the Office of Management and Budget to lead an interagency effort in responding to recommendations for improving Federal laboratories. Our progress report to the President is submitted herewith through the CCCT.

The progress report involves no new policy recommendations and requires no new decisions. It does reinforce decisions previously made, and further effort will be required to ensure continued progress in revitalizing the Federal laboratory system. Presidential acknowledgment of progress already made and encouragement of continuing effort will maintain the momentum in this activity.

I ask that the CCCT recommend that Secretary Baldrige sign the attached memorandum for the President.

MEMORANDUM FOR THE PRESIDENT

FROM: MALCOLM BALDRIGE, CHAIRMAN PRO TEMPORE  
CABINET COUNCIL ON COMMERCE AND TRADE

SUBJECT: Progress Report on Federal Laboratories

Background

On July 12, 1983, David Packard presented to you and the CCCT the results of a recent White House Science Council review of the Federal laboratories. In a memorandum dated August 5, 1983, you instructed the heads of agencies and departments to work with the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget (OMB) to implement the recommendations of the Science Council and remedy the problems that the Council had identified. Jay Keyworth has transmitted to you a report on the agencies' progress on this implementation. A copy of his memorandum to you is attached.

Discussion

The progress report identifies significant initiatives taken by the departments and agencies to remedy the problems with the Federal laboratories. It also notes that more remains to be done and identifies the additional needed actions.

Proposed Initiative

The departments and agencies should be encouraged to keep up their effort and interest in revitalizing the Federal laboratories.

Recommendation

That you sign the attached memorandum encouraging the heads of departments and agencies to continue the momentum already established.

MEMORANDUM TO THE HEADS OF DEPARTMENTS AND AGENCIES

SUBJECT:           Maintaining the Vitality of Federal Research and  
                    Development Laboratories

The Office of Science and Technology Policy has presented to me the report on actions taken by Federal departments and agencies to implement the White House Science Council's recommendations with regard to Federal laboratories. I am pleased by your progress in this important endeavor.

The report points out that much remains to be done to maintain and improve the vitality of the Federal laboratories. I compliment your efforts to date and urge you to continue devoting your attention to these laboratories. It is essential that we make the best use of them in responding to national needs.

THE WHITE HOUSE

WASHINGTON

January 28, 1985

MEMORANDUM FOR THE PRESIDENT

FROM: JAY KEYWORTH *Jay Keyworth*  
SUBJECT: Follow-on to the White House Science Council  
Report on Federal Laboratories

Federal laboratories account for one-third of Federal expenditures in research and development and almost one-sixth of national research and development expenditures. Their budgets total about \$18 billion annually. Most of these laboratories were established in a period when the needs and priorities of the Nation differed from those of today. It is essential, therefore, that their missions and output be evaluated periodically to assess the value reaped from such massive public investment.

In July 1983, David Packard presented to you and the CCCT the findings and recommendations of a White House Science Council review of Federal laboratories. The key finding was that Federal laboratories have great potential, but a number of serious deficiencies must be remedied through management reforms if the nation is to get a full return on its investment in those institutions. In August 1983, you directed that the Office of Science and Technology Policy and the Office of Management and Budget lead an interagency effort to implement the Science Council's recommendations. A progress report on this implementation is attached. This memorandum summarizes the present status, and we and OMB concur.

The report of the Science Council addressed the mission, management and resources of the Federal laboratories, and their interaction with industry and universities. Your interest in the health of Federal laboratories and the Council recommendations has caused the recommendations to receive serious attention in the agencies. I am pleased to report that the agencies have responded very positively to the central thrust of those recommendations.

It is particularly encouraging to note that the laboratories have made significant progress in forging stronger ties with universities, and that they are developing cooperative relationships with U.S. industry. This new synergism is emerging as a key element in our drive toward increased industrial competitiveness.

Most of the recommendations of the Science Council are being or can be implemented through administrative actions of the agencies and the Executive Branch. The most difficult recommendations to implement are those involving legislative changes: creating a separate technical personnel system and institution of multiyear appropriations for research and development. The agencies have begun to work with the Office of Personnel Management on new legislation permitting a more flexible personnel system for scientists and engineers, and Don Devine has indicated his enthusiasm in pursuing the matter. A final Administration position should await the outcome of further review by the agency heads involved.

There is already some legislative interest in more multi-year authorizations for R&D, and it may be best to let further interest develop in the Congress before pursuing the concept of multi-year appropriations.

One non-legislative administrative recommendation of the Science Council needs to be cited as a problem. That is the recommendation to do away with personnel ceilings at laboratories operated with civil service personnel and to rely solely on budget allocations to control laboratory operations. Concerns about the overall size of the Federal work force have for many years led Administrations to seek to constrain the size of the bureaucracy. This has made separate manpower controls a necessity. The most that can be done is to continue to permit agency heads to allocate their overall ceilings in a flexible manner and to allow use of contract personnel to assist laboratories in performing their assigned tasks.

The Federal laboratories are national assets. The recommendations for improving them are not new, but this is the first time in over twenty years that Presidential level attention has been given to implementing these recommendations. It is also the first time that concerted, government wide actions are being taken. This momentum can be maintained with your further encouragement.



THE WHITE HOUSE  
WASHINGTON

August 5, 1983

MEMORANDUM TO THE HEADS OF DEPARTMENTS AND AGENCIES

SUBJECT: Report of the White House Science Council  
Federal Laboratory Review Panel

The White House Science Council has recently completed a review of Federal laboratories. The report of that review notes that our Federal laboratories have great potential but that they could play a far greater role in meeting national needs if certain management and operating improvements can be made.

As we enter an era of increasing dependence on our science and technology, it is essential that we make better use of our Federal laboratories. I am directing the Office of Science and Technology Policy (OSTP) and the Office of Management and Budget (OMB) to lead an interagency effort to respond to the central thrust of the report.

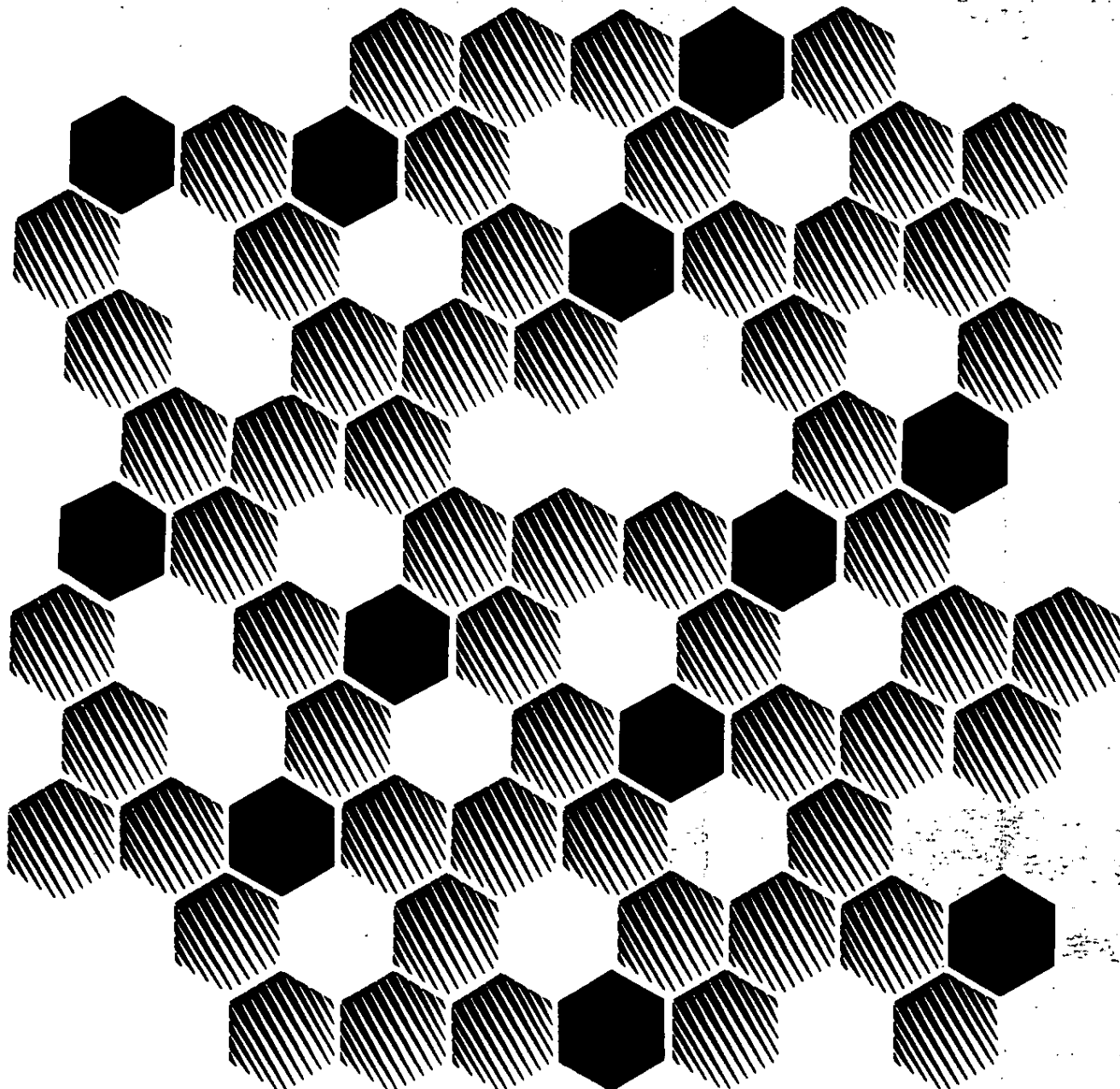
A report on actions taken by the agencies in this effort should be presented to me by OSTP and OMB no later than July 1, 1984. Agency heads with responsibilities for Federal laboratories are directed to work with these offices in addressing the Science Council's recommendations.

*Ronald Reagan*

# **Progress Report** **ON** **Implementing the Recommendations** **of the White House Science Council's** **Federal Laboratory Review Panel**

**VOLUME I—SUMMARY REPORT**

**JULY 1984**



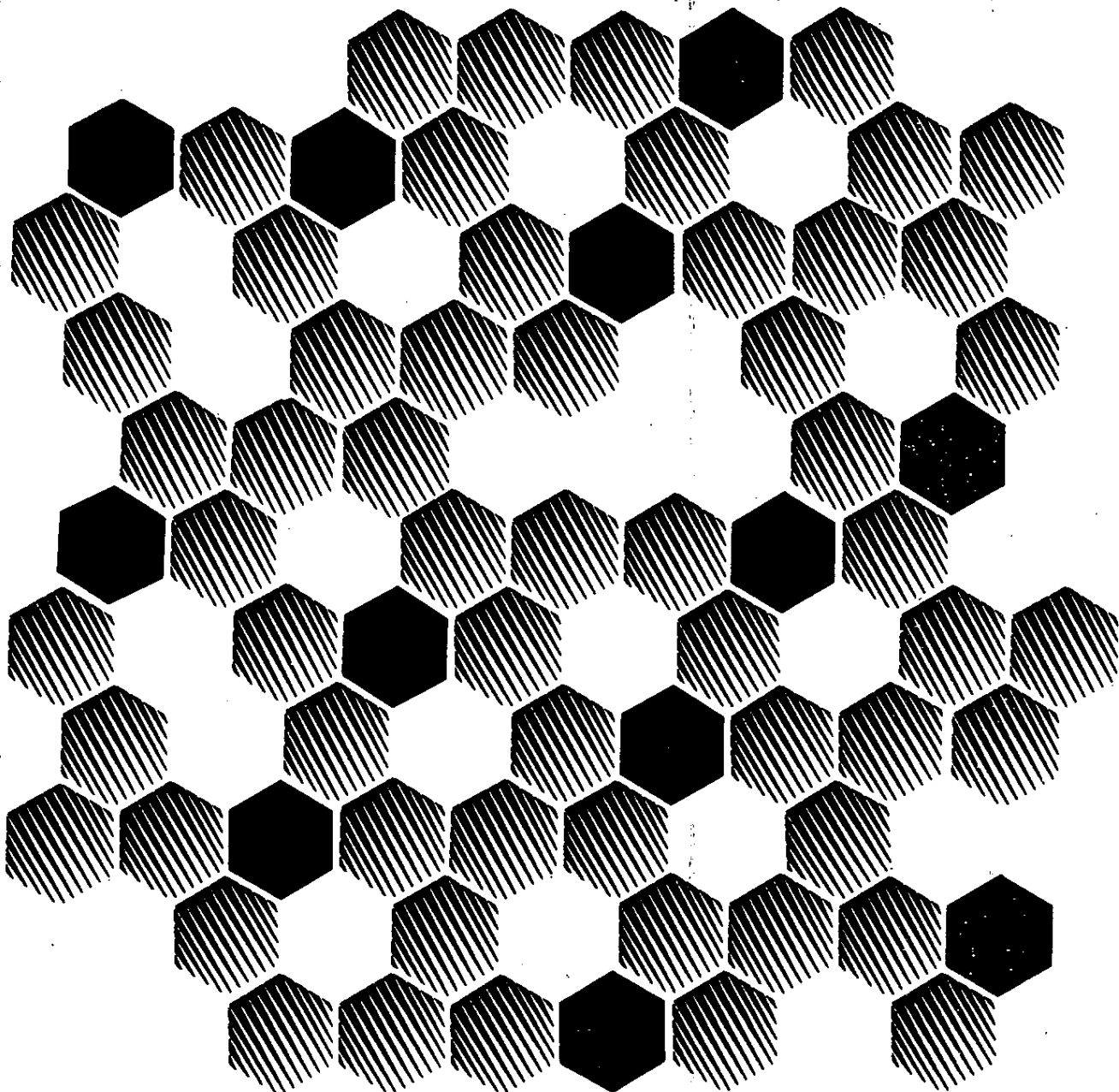
**OFFICE OF SCIENCE AND TECHNOLOGY POLICY**  
**EXECUTIVE OFFICE OF THE PRESIDENT**

WASHINGTON, D.C. 20506

**Progress Report**  
**ON**  
**Implementing the Recommendations**  
**of the White House Science Council's**  
**Federal Laboratory Review Panel**

**VOLUME II—STATUS REPORTS BY AGENCIES**

**JULY 1984**



**OFFICE OF SCIENCE AND TECHNOLOGY POLICY**  
**EXECUTIVE OFFICE OF THE PRESIDENT**

WASHINGTON, D.C. 20506